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Karen K Varley
August 1, 2002
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GROUP 1600

PIONEER HI-BRED INTERNATIONAL, INC.
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TO: Tech Center 1600

FROM: Karen K. Varley, Registration No. 45,751

RE: U. S. Patent Application No. 09/970,624; Attorney Docket No. 1263
Applicant: Wesley B. Bruce
Title: A Nitrate-Responsive Root Transcriptional Factor

DATE: August 1, 2002

FAX NUMBER: (703) 872-9306

NUMBER OF PAGE(S) FOLLOWING THIS SHEET: 2

COMMENTS:

Attached -

- Response to Restriction Requirement/2 pages

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ORIGINAL

Attorney Docket No. 1263

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Bruce, Wesley B.

Date: August 1, 2002

Serial No.: 09/970,624

Group Art Unit: 1638

Filed: October 4, 2001

Examiner: Mehta, Ashwin D.

For: "A Nitrate-Responsive Root Transcriptional Factor"

Assistant Commissioner for Patents
Washington, D.C. 20231RESPONSE TO RESTRICTION REQUIREMENT

In response to the Restriction Requirement mailed July 2, 2002, Applicant elects, with traverse, "Invention I" Claims 1-9, drawn to an isolated nucleic acid, an expression cassette comprising said nucleic acid, a host cell and transgenic plant comprising said cassette, a transgenic seed of said plant, and a method of modulating the level of a nitrate-responsive root transcription factor. The right to pursue examination of the non-elected claims in continuation or divisional applications is reserved. Reconsideration of the restrictions in this case is respectfully requested.

The Examiner has concluded that inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects. The Examiner asserts that the different inventions have different modes of operation and different functions. The Applicant respectfully traverses. Inventions of Groups I and II are capable of use together as a polynucleotide of Group I can be used to produce the

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polypeptide of Group II using the method of Group I. As such, Claim 8 is directed to this process and may be considered a unifying claim. The inventions of Groups I and II have the same function as in Claim 8, that is, to modulate the level of nitrate responsive root transcriptional factor. Further, Claim 1 (b) is directed to any polynucleotide that encodes a polypeptide of SEQ ID NO:2, again linking these two groups. Under MPEP 803, the Examiner is requested to examine claims to independent or distinct inventions if the examination does not place an undue burden on the Examiner. It is believed that Group I and Group II are sufficiently closely related to each other so as to be searched and examined together without undue burden on the Examiner.

The Applicant respectfully requests reconsideration of this Restriction Requirement.

Respectfully submitted,

Karen K. Varley

Karen K. Varley
Agent for Applicant(s)
Registration No. 45,751

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